

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FULLERTON ELEMENTARY SCHOOL  
DISTRICT.

OAH CASE NO. 2011010296

ORDER GRANTING MOTION TO  
DISMISS

On January 10, 2011, Student's parent on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a due process hearing request (complaint) naming the Fullerton Elementary School District (District).

On January 26, 2011, the District filed a motion to dismiss the complaint. OAH has received no response to the motion from Student.

APPLICABLE LAW

A local educational agency (LEA) is required to convene a meeting with the parents and the relevant members of the Individualized Education Program (IEP) team within 15 days of receiving notice of a student's complaint. (20 U.S.C. § 1415(f)(1)(B)(i)(I); 34 C.F.R. § 300.510(a)(1).) The resolution session need not be held if it is waived by both parties in writing or the parties agree to use mediation. (34 C.F.R. § 300.510(a)(3).) If the parents do not participate in the resolution session, and it has not been otherwise waived by the parties, a due process hearing shall not take place until a resolution session is held. (34 C.F.R. § 300.510(b)(3).) If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made and documented, the LEA may, at the conclusion of the 30-day period, request that a hearing officer dismiss the complaint. (34 C.F.R. §300.510(b)(4).)

DISCUSSION

The District's motion to dismiss discusses the District's attempts to set up a resolution session with Student's parent. According to the exhibit attached to the District's motion, Student's parent responded to the District's request to set up a resolution meeting with an email that stated in part: "Per my conversations with the Principal & their filling out the single page communication form at Commonwealth Elementary – I consider the matter filed with OAH resolved."

Based on the response of Student's parent to the District's attempts to set up a resolution session, it appears that Student's parent has no objection to the dismissal of this case and considers the matter resolved. The District's motion to dismiss Student's complaint is granted. Student's due process hearing request is hereby dismissed without prejudice.

IT IS SO ORDERED.

Dated: February 9, 2011

/s/

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SUSAN RUFF

Administrative Law Judge

Office of Administrative Hearings